

**RICHARD J. HAYES, JR.**

ATTORNEY AT LAW

13809 BLACK MEADOW ROAD  
GREENWOOD PLANTATION  
SPOTSYLVANIA, VIRGINIA 22553

PRACTICE LIMITED TO MATTERS BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION

**ORIGINAL**

ADMITTED IN GEORGIA  
INTERNET: rjhayes@aol.com

TELEPHONE: (703) 972-2690  
FACSIMILE: (703) 972-1309

March 21, 1996

Mr. William F. Caton  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

**RECEIVED**

**MAR 21 1996**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

RE: Petition for Rule Making  
Amendment of Section 73.202(b) Table  
of Allotments FM Broadcast Stations  
Platte Broadcasting Company, Inc.  
Plattsmouth, Nebraska

Dear Mr. Caton:

Comes now, Platte Broadcasting Company, Inc., through counsel, with a request to Amend the FM Table of Allotments at Plattsmouth, Nebraska. Radio Station KOTD-FM, Plattsmouth, Nebraska is presently licensed to operate on FM Channel 295A. Platte Broadcasting Company, Inc. requests that Section 73.202(b) be amended to substitute Channel 295C3 for Channel 295A at Plattsmouth, Nebraska.

Should any questions arise regarding this matter, kindly contact the undersigned, directly.

Respectfully submitted,

By: 

Richard J. Hayes, Jr., Esq.  
Counsel to: Platte Broadcasting  
Company, Inc.

RJH:tb  
Enclosures

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**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON DC 20554**

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**MAR 21 1996**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

**IN THE MATTER OF:**

**AMENDMENT OF SECTION 73.202(B)  
TABLE OF ALLOTMENTS  
FM BROADCAST STATIONS  
PLATTSMOUTH, NEBRASKA**

)  
) **BC DOCKET No.:** \_\_\_\_\_  
) **RM No.:** \_\_\_\_\_  
)

**TO: CHIEF, ALLOCATIONS BRANCH**

**PETITION FOR RULE MAKING**

COMES NOW, Platte Broadcasting Company, Inc. ("Petitioner"), licensee of FM broadcast station KOTD-FM, Plattsmouth, Nebraska, through counsel, and pursuant to the provisions of Section 1.401 and Section 1.420(g) of the Commission's Rules (47 C.F.R. 1.401 and 1.420(g)) requesting that the Table of Allotments in Section 73.202(b) of the Federal Communications Commission's Rules and Regulations be amended.

KOTD-FM, Plattsmouth, Nebraska is presently licensed to operate on FM channel 295A. The purpose of this Petition is to obtain Commission authority to upgrade the facilities of KOTD-FM to those of a wide-area FM station.

Accordingly, Platte Broadcasting Company, Inc. hereby requests that the FM Table of Allotments in Section 73.202(b) be amended to substitute channel 295C3 for channel 295A at

**PLATTE BROADCASTING COMPANY, INC.**  
**PETITION FOR RULE MAKING**  
**PAGE TWO**

Plattsmouth, Nebraska and that the license of KOTD-FM be modified to specify operation on the higher-class channel. In order to accommodate this upgrade at Plattsmouth, Nebraska, Petitioner also respectfully requests that channel 296C2 be substituted for channel 295C2 at Osceola, Iowa and that the license of FM broadcast station KJJC-FM at Osceola be modified to permit operation on channel 296C2. Platte Broadcasting Company, Inc. requests that the FM Table of Allotments be amended, as follows:

<b><u>LOCATION</u></b>	<b><u>PRESENT</u></b>	<b><u>PROPOSED</u></b>
PLATTSMOUTH, NEBRASKA	295A	295C3
OSCEOLA, IOWA	295C2	296C2

There are compelling, public interest justifications for granting this rule making and, in support thereof, the Petitioner hereby submits the following information:

**I. PRELIMINARY STATEMENT**

**A. Wide-Area FM Broadcast Service**

The purpose of this request is to provide a much needed wide-area (expanded) FM broadcast service to the community of Plattsmouth, Nebraska. At present, the citizens of

**PLATTE BROADCASTING COMPANY, INC.**  
**PETITION FOR RULE MAKING**  
**PAGE THREE**

Plattsmouth, Nebraska have access to a locally licensed class A FM facility (KOTD-FM) and small, limited power AM station (KOTD-AM). KOTD-FM, as a class A FM station, presently serves an area of 2,510 square kilometers and a population of 460,728 people. As a class C3 facility, KOTD-FM would provide 60 dBu service to 4,746 square kilometers and 618,873 persons. This represents an increase in area of 89.1% and an increase in persons served by 34.3%. By any yardstick, an upgrade in the facilities of KOTD-FM would be an efficient utilization of spectrum. Clearly, this proposed facility will provide new FM service to a substantial population and will further the Commission's goal of diversity of expression in the marketplace. No other person or community has expressed any interest in this channel at Plattsmouth, Nebraska.

**B. Substitution of Channels at Osceola, Iowa.**

As stated, channel 296C2 must be substituted for channel 295C2 at Osceola, Iowa and the license of station KJJC must be modified to specify operation on the substituted channel. This simple, one channel change at Osceola, Iowa would result in only a minor inconvenience at KJJC and would be in the public interest when considered in the light of the significant improvement in area and population to be served by a wide-area (expanded) facility at Plattsmouth, Nebraska. The channel change at Osceola could be accommodated without any change in transmitter or tower location on the part of KJJC-FM. Only simple transmitter and antenna adjustments would be required. There would be no confusion in Osceola as a result of the channel change since the

**PLATTE BROADCASTING COMPANY, INC.**  
**PETITION FOR RULE MAKING**  
**PAGE FOUR**

required adjustment is merely one channel higher than presently authorized for KJJC. Furthermore, since the channel change would only require minimal adjustments to the transmitting facilities of KJJC, there would be no need for any noticeable interruption of service to the Osceola community. The Petitioner will, as required by the Commission's Rules and Regulations, reimburse KJJC for reasonable and prudent, out-of-pocket expenses associated with the necessary channel change at Osceola.

**II. ENGINEERING CONSIDERATIONS**

**A. Substantial Area to Receive Additional Service**

Petitioner's engineering exhibit, as attached, provides an analysis of a complete search of the FM band. That study concludes that Channel 295C3 would enable KOTD-FM to provide city-grade coverage to Plattsmouth, Nebraska at the coordinates identified in the exhibit. Those coordinates represent only a slight site restriction (18 kilometers) north-northeast of Plattsmouth to prevent a short-spaced condition with KTPK, Topeka, Kansas. Channel 295C3 could be allotted, consistent with the mileage separation and city-grade service requirements of the Commission's rules. The consideration of all factors shows that this proposal can be accommodated and that Channel 295C3 can be substituted for channel 295A at Plattsmouth, Nebraska without jeopardizing any other community or facility. No community would lose any present or potential service and a substantial area of service would be added if this proposal is implemented.

**III. PETITIONER'S INTENTION TO APPLY FOR CHANNEL 295C3**

If these proposed changes are implemented by the Commission, the Petitioner intends, pursuant to the Rules of the Commission, to file an application for a construction permit, and if awarded the permit, to promptly construct the expanded facility. Financially, the Petitioner is qualified to construct and operate the facility sought.

**IV. SUMMARY**

No community will lose any present or proposed service as a result of a grant of this "Petition for Rule Making" and, furthermore, a substantial new area of service will be added. As indicated above, a grant of this "Petition" will provide a much needed expanded FM broadcast service to Plattsmouth, Nebraska. This "Petition" would, if granted, provide for an efficient utilization of broadcast resources.

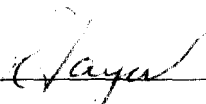
Therefore, in view of the foregoing facts, Petitioner requests that the FM Table of Allotments (Section 73.202(b)) be amended to allot FM Channel 295C3 to Plattsmouth, Nebraska and that the license of station KOTD-FM be modified to permit operation on the higher-class channel. To accommodate this upgrade, KJJC at Osceola, Iowa would be required to change its channel of operation from 295C2 to 296C2. Insofar as KOTD-FM, Plattsmouth, Nebraska would upgrade its facility on its present channel 295, Section 1.420(g) of the

**PLATTE BROADCASTING COMPANY, INC.**  
**PETITION FOR RULE MAKING**  
**PAGE SIX**

Commission's Rules states that competing expressions of interest for the use of channel 295C3 at Plattsmouth, Nebraska will not be accepted and the Petitioner will not be required to demonstrate the availability of an additional equivalent class channel for use by such parties.

Respectfully submitted,

**PLATTE BROADCASTING COMPANY, INC.**

By:   
Richard J. Hayes, Jr., Esquire  
Its Attorney

Date: March 20, 1996

Richard J. Hayes, Jr., Esquire  
13809 Black Meadow Road  
Spotsylvania, Virginia 22553  
(540) 972-2690

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON DC 20554**

**IN THE MATTER OF:**

**AMENDMENT OF SECTION 73.202(b)  
TABLE OF ALLOTMENTS  
FM BROADCAST STATIONS  
PLATTSMOUTH, NEBRASKA**

)  
) **MM DOCKET No.:** \_\_\_\_\_  
) **RM No.:** \_\_\_\_\_  
)

**NOTICE OF PROPOSED RULE MAKING**

**Adopted:**

**Released:**

By the Chief, Policy and Rules Division:

1. The Commission has before it for consideration the Petition for Rule Making submitted by Platte Broadcasting Company, Inc. ("Petitioner") requesting the substitution of channel 295C3 for channel 295A at Plattsmouth, Nebraska and modification of the license of station KOTD-FM to specify operation on the higher-class channel. Petitioner also requests the substitution of channel 296C2 for channel 295C2 at Osceola, Nebraska and the modification of the license of KJJC, Osceola, Nebraska to specify operation on channel 296C2 to accommodate the proposal at Plattsmouth, Nebraska. Petitioner submitted information in support of the proposal, pledged to reimburse KJJC, Osceola for necessary and prudent out-of-pocket expenses



**Notice of Proposed Rulemaking**  
**Page Two**

associated with the channel change and expressed an intention to apply for channel 295C3 at Plattsmouth, Nebraska.

2. Channel 295C3 can be allotted to Plattsmouth, Nebraska in compliance with the Commission's minimum distance separation requirements as evidenced in the attached engineering statement. Petitioner states that the public interest would benefit from the allotment of this channel as it could provide Plattsmouth with its first expanded FM broadcast service.

3. In order to effectuate this proposal, the Commission proposes to amend the Table of Allotments, Section 73.202(b) of the Commission's Rules with respect to the following communities:

<u>LOCATION</u>	<u>PRESENT</u>	<u>PROPOSED</u>
Plattsmouth, Nebraska	295A	295C3
Osceola, Iowa	295C2	296C2

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing by reference herein. NOTE: A showing of continuing interest is required by Paragraph 2 of the Appendix before a channel will be assigned.

**Notice of Proposed Rulemaking**  
**Page Three**

5. Interested parties may file comments on or before \_\_\_\_\_, and reply comments on or before \_\_\_\_\_, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the Petitioner, as follows:

Richard J. Hayes, Jr., Esquire  
13809 Black Meadow Road  
Spotsylvania, VA 22553  
Counsel to Platte Broadcasting Company, Inc.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, Section 73.202(b), of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 Fed. Reg. 11549, published February 9, 1981.

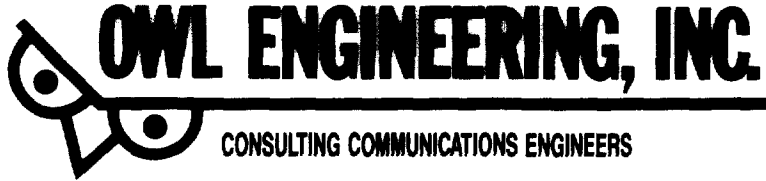
7. For further information concerning this proceeding, contact \_\_\_\_\_  
Mass Media Bureau (telephone) (202) \_\_\_\_\_. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited

**Notice of Proposed Rulemaking**  
**Page Four**

in Commission proceedings, such as this one, which involve channel allotments. An ex parte contact is a message (spoken or written) officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Chief, Policy and Rules Division  
Mass Media Bureau



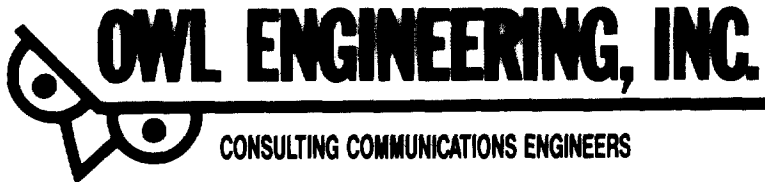
CONSULTING COMMUNICATIONS ENGINEERS

1306 W. County Road F, St. Paul, MN 55112  
(612) 631-1338 • Fax (612) 631-3502  
1-800-797-1338

**ENGINEERING STATEMENT ON BEHALF OF  
PLATTE BROADCASTING COMPANY, INC.  
IN SUPPORT OF A PETITION TO AMEND  
THE FM TABLE OF ALLOTMENTS  
PLATTSMOUTH, NEBRASKA**

**March 18, 1996**

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**ENGINEERING STATEMENT ON BEHALF OF  
PLATTE BROADCASTING COMPANY, INC.  
IN SUPPORT OF A PETITION TO AMEND  
THE FM TABLE OF ALLOTMENTS  
PLATTSMOUTH, NEBRASKA**

Owl Engineering, Inc. has been retained by Platte Broadcasting Company, Inc. (hereafter Platte) to prepare this engineering statement in support of a Petition to Amend the FM Table of allotments, FCC Rule Section 73.202(b) as follows:

<u>Location</u>	<u>Present</u>	<u>Proposed</u>
Plattsmouth, NE	295A	295C3
Osceola, IA	295C2	296C2

The reference coordinates for Plattsmouth, NE used in this study are:

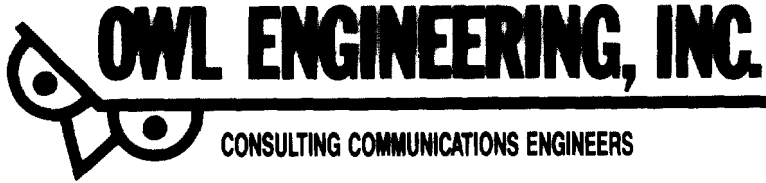
41° 09' 22" North Latitude  
95° 47' 03" West Longitude

The reference coordinates for Osceola, IA used in this study are:

41° 01' 34" North Latitude  
93° 51' 43" West Longitude

The community of Plattsmouth has a population of 6,412 persons based on 1990 US Census data.

The reference coordinates listed above represent a site restriction 18 kilometers north northeast of Plattsmouth. The site restriction is required to prevent a short spaced condition with KTPK located at Topeka, KS. The reference coordinates listed above for Osceola are that of Radio Station KJJC, licensee of channel 295C2.



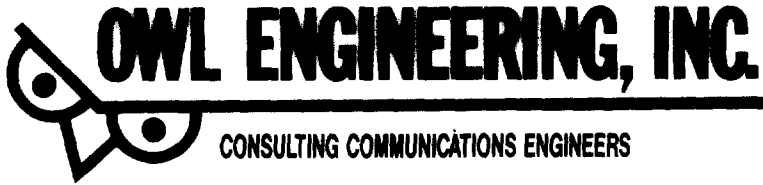
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**ENGINEERING STATEMENT ON BEHALF OF  
PLATTE BROADCASTING COMPANY, INC.  
IN SUPPORT OF A PETITION TO AMEND  
THE FM TABLE OF ALLOTMENTS  
PLATTSMOUTH, NEBRASKA**

Included as Engineering Exhibit E-1 is a channel allocation study for Plattsmouth based on the reference coordinates listed above. As can be seen from this exhibit, Platte's proposal is in complete conformance with FCC Rule Section 73.207 with the exception of channel 295C3 at Osceola. Full mileage protection can be attained by relocating Osceola to channel 296C2.

Included as Engineering Exhibit E-2 is a channel allocation study for Osceola based on the reference coordinates listed above. As can be seen from this exhibit, Osceola is in complete conformance with FCC Rule Section 73.207 with the exception of channel 296A at Ames, IA. Ames has been ordered to channel 286C3 per MM Docket No. 92-155 thus eliminating this short spaced condition.

Platte's proposal was examined to determine if a Class C3 facility located at the reference coordinates listed above would comply with FCC Rule Section 73.315 regarding minimum signal coverage requirements. The 70 dBu contour is depicted in Engineering Exhibit E-3. As can be seen from Engineering Exhibit E-3, the community of Plattsmouth is completely served by a signal of 70 dBu or greater. (The F(50,50) metric curves of Figure 1 of Section 73.333 of the Commissions Rules were used to calculate the distance to the 70 dBu contour along the eight standard 45-degree spaced radials and the radial through the city of Plattsmouth.) The radial drawn through Plattsmouth is depicted on the profile plot included as Engineering Exhibit E-4. This permitted a determination to be made that there are no major obstructions in the intervening path from the transmitter site to the principal community.



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**ENGINEERING STATEMENT ON BEHALF OF  
PLATTE BROADCASTING COMPANY, INC.  
IN SUPPORT OF A PETITION TO AMEND  
THE FM TABLE OF ALLOTMENTS  
PLATTSMOUTH, NEBRASKA**

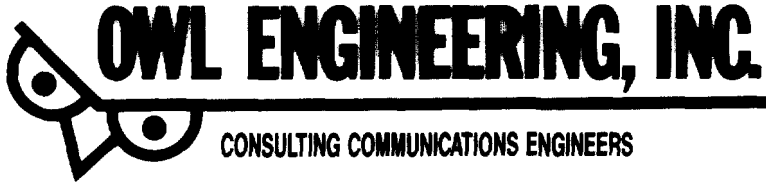
An engineering study was performed to determine the number of persons to be served by a Class C3 facility based on the reference coordinates. The 60 dBu contour was calculated and is shown in Engineering Exhibit E-3. The proposed Class C3 facilities would serve a population of 618,873 persons encompassed in an area of 4,746 km<sup>2</sup>.

A comparison of the higher class channel at Plattsmouth was made with the presently licensed Class A facilities for KOTDFM. Based on the engineering data supplied in the application for Construction Permit, KOTDFM will provide a 60 dBu signal to 460,728 persons encompassed in an area of 2,510 km<sup>2</sup>. This represents an increase of 34.3% in population and 89.1% in area.

**CONCLUSIONS**

Based on the engineering studies provided, the following conclusions can be obtained:

1. The proposal will provide Plattsmouth with a full time regional broadcast service.
2. Based on 1990 US Census data, 618,873 persons will be served by a signal of 60 dBu or greater from the proposed reference coordinates.
3. The proposal meets the requirements of FCC Rule Section 73.315.
4. The proposal meets the requirements of FCC Rule Section 73.207.
5. The proposal will increase the population served by 34.3%
6. The proposal will increase the area served by 89.1%



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IN SUPPORT OF A PETITION TO AMEND  
THE FM TABLE OF ALLOTMENTS  
PLATTSMOUTH, NEBRASKA**

**AFFIDAVIT**

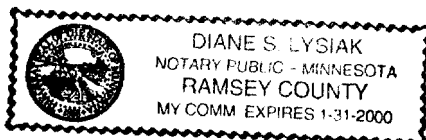
RAMSEY COUNTY                    )  
  )  
STATE OF MINNESOTA            )        **ss:**

Michael W. Radovich, being first duly sworn, says that he is an employee of Owl Engineering, Inc., consulting communications engineers with offices in Arden Hills, Minnesota; that his qualifications as an expert in communications engineering are a matter of record with the Federal Communications Commission; that the foregoing exhibit was prepared by him and under his direction; and that the statements contained therein are true of his own personal knowledge except those stated to information and belief and, as to those statements, verily believes them to be true and correct.



**Michael W. Radovich, P.E.**

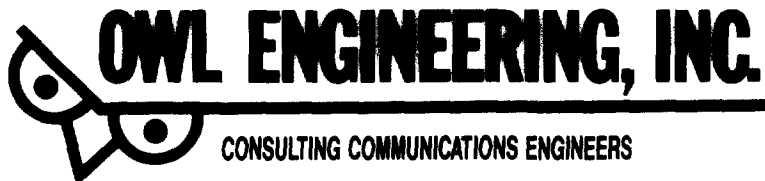
**Subscribed and sworn to before me this date March 18, 1996**



**Diane S. Lysiak  
Notary Public**

**My commission expires January 31, 2000**





CONSULTING COMMUNICATIONS ENGINEERS

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1-800-797-1338

## ENGINEERING EXHIBIT E-1

### CHANNEL ALLOCATION STUDY

Job Title-> Plattsmouth, NE  
FM Channel 295-C3 (106.9 MHz)

LATITUDE: 41 9' 22" LONGITUDE: 95 47' 3"

CHNL	Call Status	Owner	City	Class	Calculated Km.	Required Km.	Clear- ance	Bearing degrees
241		FANE	Omaha	C	38.22	31	7.22	255.74
241	KEFM	FMNE	Omaha	C	38.22	31	7.22	255.74
242		NO CONFLICT						
292	KISP	FMNE	Blair	A	56.65	42	14.65	334.93
292	KIBZ	FMNE	Lincoln	C2	86.49	56	30.49	244.10
293		NO CONFLICT						
294	NEW	FMIA	Lake City	C3	134.21	99	35.21	36.62
294	KEXL	FMNE	Norfolk	C	180.22	176	4.22	299.33
295	KJJC	FMIA	Osceola	C2	162.15	177	-14.85	94.50*
	LIC	Lifestyle Communicat		41	1' 34" 93 51' 43"		BLH890308KB	
295	KTPK	FMKS	Topeka	C	236.77	237	-0.23	182.76**
	LIC	Topeka BroadComm, In		39	1' 34" 95 54' 58"		BLH861014KA	
296	KDSNFM	FMIA	Denison	A	104.83	89	15.83	20.92
296	KJJC	FMIA	Osceola	C2	162.15	117	45.15	94.50
297	KEZG	FMNE	Lincoln	C1	84.54	76	8.54	235.88
298		NO CONFLICT						

\* To channel 296C2.

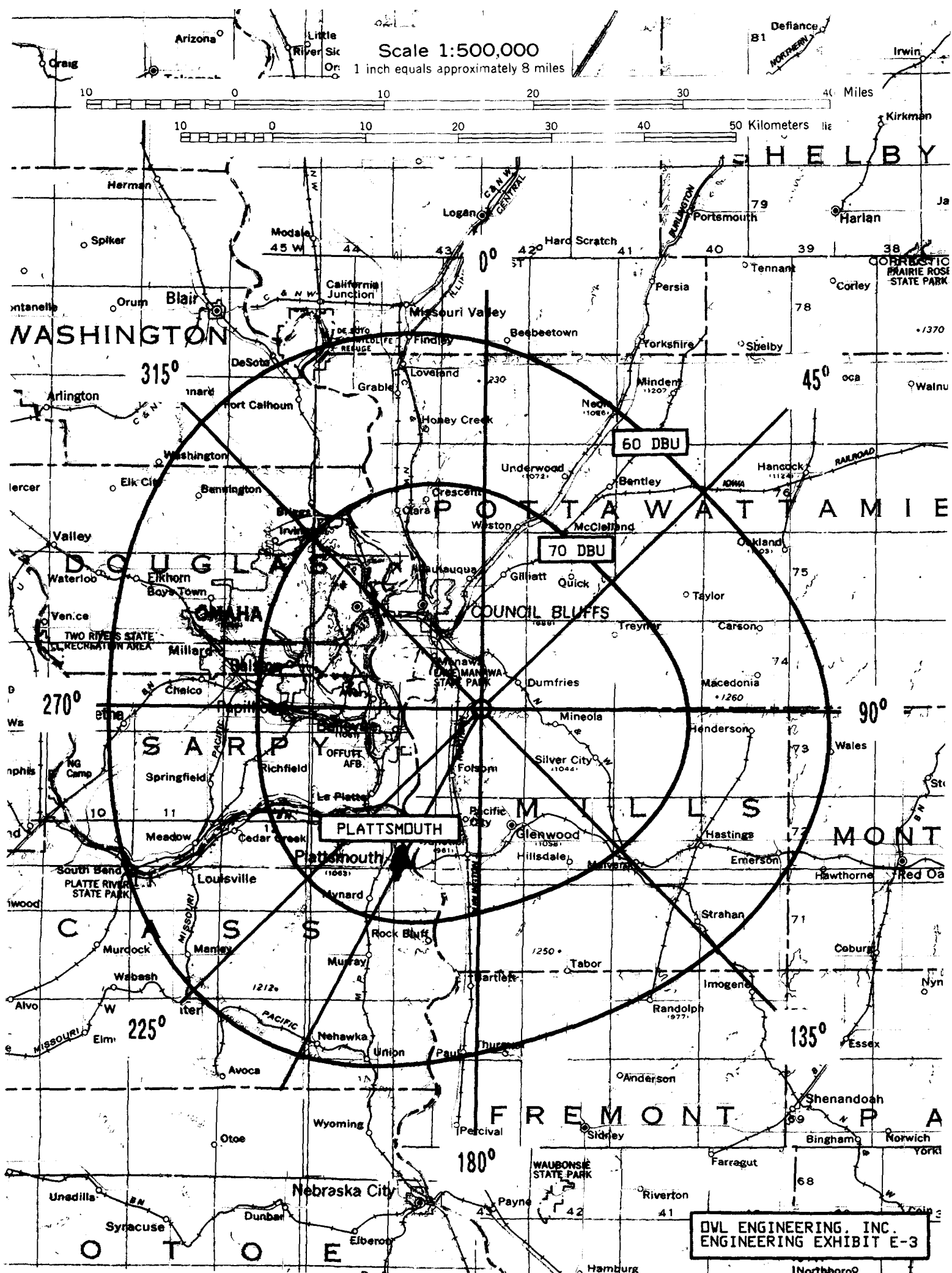
\*\* Calculated distance rounds to 237 kilometers per FCC Rule Section 73.208.



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## CHANNEL ALLOCATION STUDY

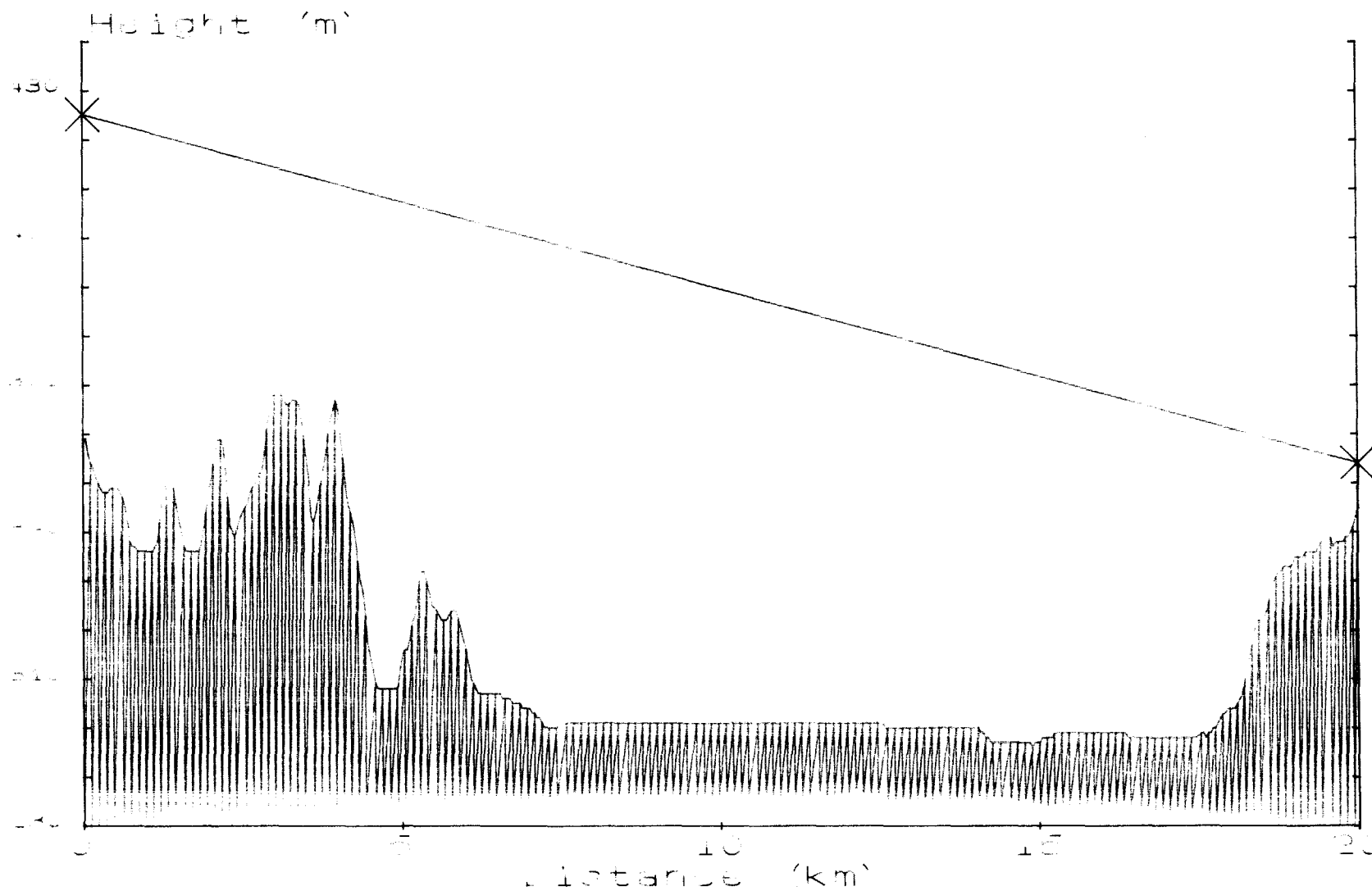
\* To channel 286C3 per MM Docket No. 92-155.



Scale 1:500,000

1 inch equals approximately 8 miles

DWL ENGINEERING, INC.  
ENGINEERING EXHIBIT E-3



Profile Study for Plattsmouth, NE

Owl Engineering, Inc.  
1306 W. County Rd. F

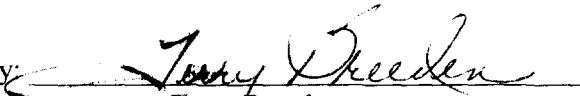
Saint Paul, Minnesota  
(612) 631-1338

Engineering Exhibit E-4

**CERTIFICATE OF SERVICE**

I, Terry Breeden, Secretary to Richard J. Hayes, Jr., Esquire, hereby certify that copies of the foregoing "PETITION FOR RULE MAKING" have been served by first-class, U.S. Mail, postage prepaid, or as other indicated, to the following on this 21st day of March, 1996.

Lifestyle Communications, Inc.  
KJJC(FM)  
P.O. Box 556  
Osceola, Iowa 50125

By:   
Terry Breeden

\* VIA FEDERAL EXPRESS